



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TX 75202-2733

SEP 13 2010

Teresa Marks, Director  
Arkansas Department of Environmental Quality  
5301 Northshore Drive  
North Little Rock, AR 72118-5317

Dear Ms. Marks:

Thank you for your August, 6, 2010, letter which outlined a proposed path to assessing uses in Coffee Creek and Mossy Lake. I appreciate your efforts to address the Environmental Protection Agency's (EPA) concerns related to lack of use designations for these waters. I would like to respond to your proposed approach and recommend addressing other waters of the State that lack Clean Water Act (CWA) section 101(a)(2) uses.

Your letter indicated that, based on discussions between Arkansas Department of Environmental Quality's (ADEQ) and Georgia-Pacific Crossett Operations Mill, the facility has agreed to conduct a use attainability analysis (UAA) for Coffee Creek and Mossy Lake following Arkansas and EPA guidance. Your letter states that ADEQ intends to submit a UAA for Coffee Creek and Mossy Lake to EPA Region 6 when complete. Due to the unique nature and complexity of this system, we recommend developing a quality assurance project plan (QAPP) or equivalent document and a detailed workplan (or the combination of the two) before initiating work on a UAA. My staff can participate in developing and/or reviewing the QAPP and workplan. Involving EPA at the outset will better ensure mutual agreement between our agencies.

We encourage a collaborative and innovative approach to restore the Coffee Creek/Mossy Lake ecosystem. Such a plan could be separate or part of the UAA effort. EPA believes that innovative approaches that have been used elsewhere in Region 6 could possibly be applied here. These could include expanding the use of wetlands to assimilate treated wastewater. This has been done at a smaller scale to restore hydrologically starved wetlands in Louisiana with some success. Perhaps this could be combined with diverting some treated wastewater to Coffee Creek. A restoration plan could be combined with any mill process modifications that could reduce the volume and improve treatment of the wastewater. These and other approaches should be considered, given that the intent is to provide for the highest attainable use to be met in these waters.

Our letter discussed other waters as a concern in the state due the lack of CWA §101(a)(2) uses. We suggest that you prioritize your attention on Coffee Creek and Mossy Lake initially, and then establish a schedule to address the other waters of concern. Although EPA's records indicate that studies were submitted by ADEQ supporting the removal of §101(a)(2) uses in 1986 for Railroad Hollow Creek, and the unnamed tributaries to Smackover Creek and Flat Creek, we have no record of ADEQ

reviewing these waters every three years as required by 40 CFR 131.20(a). The purpose of the review is to determine if new information is available which would indicate if conditions have improved and able to support more protective uses, consistent with the goals outlined in §101(a) of the CWA.

In the absence of designated uses, EPA's regulations establish a rebuttable presumption of §101(a)(2) use attainability. Without any current information to the contrary, EPA is directed to consider the State's ecoregional aquatic life and contact recreation uses to be attainable in these waters. If ADEQ believes that these waters aren't capable of supporting these uses, that presumption can be rebutted through the UAA process. We encourage you to begin planning to develop UAAs to assign appropriate uses for these waters. As with Coffee Creek and Mossy Lake, my staff can participate in developing and/or reviewing related QAPPs and workplans.

We look forward to working with you on development of UAAs for Coffee Creek and Mossy Lake to ensure appropriate protections for these waters. We are hopeful that a positive outcome will result from a collaborative and innovative plan that could help restore this unique ecosystem. We also look forward to working with you on resolving similar issues for Railroad Hollow Creek, and the unnamed tributaries to Smackover Creek and Flat Creek. If you would like to discuss this matter further, please contact me at (214) 665-7101 or Matt Hubner at (214) 665-9736.

Sincerely,



Miguel I. Flores



Director

Water Quality Protection Division

cc: Ryan Benefield, Deputy Director, ADEQ  
Steve Drown, Chief, Water Division, ADEQ  
Jamie Ewing, ADEQ  
Sarah Clem, Water Quality Branch Manager, ADEQ  
Alison Lathrop, Georgia-Pacific Crossett Operations Mill